

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE TENTH CIRCUIT

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Chief Judge
Albuquerque, NM

On behalf of the Bankruptcy Appellate Panel of the Tenth Circuit (“BAP”), I am pleased to provide this report on our first full year of operation. As noted in the following, the calendar year 1997 boasts of many significant achievements and successful endeavors.

Filings with the BAP increased by 27% in 1997, with 53% of appellants choosing to proceed before the BAP. Of the eight appeals from the BAP to the Circuit Court of Appeals, four appeals have been dismissed and two appeals have been disposed of on the merits, both of which affirmed the decisions of the BAP. The judges of the BAP have largely achieved their goal of disposing of appeals within 60 days from submission, with a 1997 average “submission to disposition” time of 52 days. The time from the date the notice of appeal was filed with the Bankruptcy Court to the date the BAP entered a final judgment averaged 133 days.

As a result of the recent implementation of the BAP in the Tenth Circuit, educating the bankruptcy bar, public, and other court units, became an important focus in 1997. The panel judges, together with Clerk’s Office personnel, participated in several continuing legal education seminars for the bankruptcy bar throughout the Circuit and nationally. Packets of resource materials and step-by-step instructions were prepared and disseminated to attorneys and to Bankruptcy Courts within the Circuit. The BAP Clerk’s Office continues to work closely with the Bankruptcy Courts to ensure a smooth transition with the new BAP procedures. The Federal Judicial Center sponsored and conducted the first BAP judges’ seminar, which proved to be educational and beneficial. The Clerk of the BAP sits as a member of several Administrative Office committees and is particularly active in the area of automation in the federal courts.

As of the end of 1997, the BAP had conducted oral argument sessions in Colorado, Kansas, Northern Oklahoma, Western Oklahoma, Wyoming, and Utah. The BAP continues to explore alternative methods of oral argument to reduce costs on behalf of the bankruptcy litigants and to increase judicial efficiency. Oral argument by teleconference is an option offered to all litigants requesting argument, and has proven to be cost-effective and successful. Due to the pioneering efforts of the Circuit Executive and many others, the BAP now has the ability to offer litigants in the districts of Wyoming and Oklahoma argument by videoconference. Through the use of teleconference and videoconference technology, the BAP has greatly reduced the length of time it takes to place an appeal on a calendar for oral argument, and increased the number of submissions on any given calendar.

During the fall of 1997, the BAP Local Rules Committee (“Rules Committee”) undertook the task of

reviewing the existing BAP rules. Bankruptcy practitioners, Bankruptcy Clerk's Offices, judicial officers, and other interested parties were asked for comments and suggestions. The Rules Committee reviewed the submitted comments and suggestions and prepared draft proposed amendments. The proposed amendments were circulated for public comment, and where warranted, revisions were made. Through the diligent efforts of many people, the revised Local Rules of the BAP have successfully streamlined the process by which an appeal is prosecuted.

On the heels of the announcement of the retirement of my esteemed colleague Stewart Rose, Bankruptcy Judge, District of New Mexico, came the announcement that Chief Bankruptcy Judge Charles E. Matheson, District of Colorado, agreed to complete the term of Judge Rose as a panel member for the BAP. Judge Matheson's experience and expertise can only serve to strengthen the efforts of the BAP. We look forward to working with him, and to the day that we can assist the Colorado bar and federal bench with the growing number of bankruptcy appeals.

As I stated previously, the calendar year 1997 boasts of many successful accomplishments, none of which could have been completed without the considerable assistance and support from the judges of the Tenth Circuit Court of Appeals; the Office of the Circuit Executive; the Tenth Circuit Clerk's Office; and the district and bankruptcy court judges and Clerk's Offices. As always, their advice and support has proven to be invaluable and has been very much appreciated.